IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11100 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CHIEF OFFICER & 1 - Petitioner(s)

Versus

STATE OF GUJARAT & 24 - Respondent(s)

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Appearance :

BALKRISHNA ACHARYA for Petitioner(s) : 1 - 2.
MS FALGUNI PATEL AGP for Respondent(s) : 1 - 3.
NOTICE SERVED BY DS for Respondent(s) : 4 - 25.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 21/11/2005

ORAL JUDGMENT

1. In the present petition, the petitioners have challenged the legality of an order dated 25th May, 1998

passed by Collector, Surrendranagar. By the impugned order which is placed on record, the Collector, Surrendranagar was pleased to prevent the petitioners from acting on a resolution dated 29/4/1995. By the said resolution the petitioners had decided to give on lease plot no.5 in favour of one Dineshbai Laxmanbhai Makwana for a period of seven years. It may be noted that several similar orders were passed by the Collector with respect to the decision of the petitioners to lease out different plots in favour of different other individuals and such orders are also sought to be challenged in the present petition, all these orders are not produced on record.

2. It can be seen that the Nagarpalika had taken a decision to give on lease for a period of seven years certain plots of land. This decision was taken on 29th April, 1995. Seven years of period envisaged therein, therefore, is over long time back. It would not be possible to put back the clock and permit the petitioners to operate the resolution passed in the year 1995 at this distant point of time. By afflex of time, the petition having become infructuous is required to be disposed of accordingly. It may be noted that the order was passed

by the District Collector in May, 1998 and the petition is filed in the year 2002. Therefore, without deciding the legality of the order passed by the Collector which is under challenge, this petition is disposed of with the observations that it will be open for the Nagarpalika to take a fresh decision in accordance with law regarding the property in question. Learned advocate Shri Acharya points out that the administration of the Nagarpalika is no longer with the Chief Officer and new body should be permitted to take a fresh decision. In view of the circumstances, the petition is disposed of subject to above observations. Rule is discharged with no order as to costs.

(Akil Kureshi, J.)

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